

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

EDMUND S. CHILENSKI, III,

Plaintiff,

V.

CAROLYN W. COLVIN, Acting
Commissioner of the Social Security
Administration.

Defendant.

CASE NO. 14-cv-05396 RJB JRC

REPORT AND RECOMMENDATION
ON STIPULATED MOTION FOR
REMAND

This matter has been referred to Magistrate Judge J. Richard Creatura pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Magistrates Rule MJR 4(a)(4), and as authorized by *Mathews, Secretary of H.E.W. v. Weber*, 423 U.S. 261 (1976). This matter is before the Court on defendant's stipulated motion to remand the matter to the administration for further consideration. (ECF No. 20.)

After reviewing defendant's stipulated motion and the relevant record, the undersigned recommends that the Court grant defendant's motion, and ORDER that the above-captioned case be REVERSED and REMANDED to the Acting Commissioner of Social Security (the

1 Commissioner) for further administrative proceedings including a *de novo* hearing pursuant to
2 sentence four of 42 U.S.C. § 405(g) if not found disabled by the Commissioner for the closed
3 period at issue herein from plaintiff's amended alleged onset date of July 31, 2010, until
4 December 19, 2012, the date plaintiff was found disabled based upon his more recent
5 application.

6 On remand for the closed period at issue, the case shall be forwarded to the
7 Commissioner in order for the Medical Support Staff at the Appeals Council to have the
8 opportunity for further consideration of the severity of plaintiff's mental impairments to
9 determine disability during the relevant period. If disability cannot be established by the
10 Commissioner's Medical Support Staff for the closed period at issue, it will be remanded to an
11 Administrative Law Judge (ALJ) for further administrative proceedings. The ALJ shall offer
12 plaintiff an opportunity for a new hearing for the closed period at issue, further update the
13 medical record, and issue a new decision. The ALJ shall also reevaluate the severity of plaintiff's
14 mental impairments for the closed period at issue, apply the special technique to determine
15 plaintiff's ability to function in the four areas of functioning, and evaluate the effect, if any, of
16 plaintiff's subsequent application which was granted on October 6, 2014, finding plaintiff
17 disabled beginning December 19, 2012, the day after the unfavorable ALJ application in this
18 matter. If necessary, the ALJ shall obtain medical expert testimony to assist in determining the
19 severity of his impairments and the date of disability onset.

20 The parties have stipulated that plaintiff is entitled to reasonable attorney's fees and costs
21 pursuant to 28 U.S.C. § 2412(d), following proper request to this Court.

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1 Given the facts and the parties' stipulation, the Court recommends that the District Judge
2 immediately approve this Report and Recommendation and order the case be **REVERSED** and
3 **REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g).

4 Dated this 7th day of November, 2014.

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7 J. Richard Creatura
8 United States Magistrate Judge
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